

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



Applicant's or agent's file reference 01/090 LTS	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP 03/00252	International filing date (day/month/year) 14.01.2003	Priority date (day/month/year) 17.01.2002
International Patent Classification (IPC) or both national classification and IPC B09B3/00, B09B3/00		
Applicant LTS LOHMANN THERAPIE-SYSTEME AG		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

 These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 05.08.2003	Date of completion of this report 29.04.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Plontz, N Telephone No. +31 70 340-3930 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP 03/00252

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-5 as originally filed

Claims, Pages

1-6 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

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**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	4-6
	No: Claims	1-3
Inventive step (IS)	Yes: Claims	
	No: Claims	1-6
Industrial applicability (IA)	Yes: Claims	1-6
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement.

1. Reference is made to the following document :

D1: US-A-4 871 559 (DUNN JOSEPH E ET AL) 3 October 1989.

2. The expression "performed at a temperature and during a period of time sufficient to remove essentially all of the undesired substances from the carrier material" in claim 1 lacks clarity because it attempts to define the subject-matter in terms of the result to be achieved which merely amounts to a statement of the underlying problem. Such a definition is only allowable under the conditions elaborated in the PCT Guidelines C-III, 4.7.
3. Document D1 (cf. column 7, lines 3-32), as closest state of the art, discloses a method for removing contaminating or undesired substances from a carrier material by subjecting such carrier material to a thermal treatment according to claim 1.

Therefore claim 1 lacks novelty in the sense of Article 33(2) PCT.

- 3.1 Document D1 further discloses the sufficient temperature and time to which the process is to be carried according to claim 2 and carrier materials being paper, polymer, a composite material composed of paper, polymer or a thin metal foil or polymer and a thin metal foil according to claim 3 (cf. column 13, lines 11-15 and example 9).

Therefore claims 2 and 3 also lack novelty in the sense of Article 33(2) PCT.

- 3.2 The additional feature of dependant claim 4 relates to a method for causing the contamination to be removed by the method of claim 1. Thus this feature cannot be considered as solving a problem related to removing of contaminants as set in claim 1.

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Therefore claim 4 lacks inventive step in the sense of Article 33(3) PCT

- 3.3 Same applies to claims 5 and 6 where the selection of the listed contaminants does not seem to present unexpected effects or properties compared to the contaminants removed in D1.

Therefore claims 5 and 6 also lack inventive step in the sense of Article 33(3) PCT.

4. Contrary to the requirements of Rule 5.1 (a)(ii) PCT, the relevant background art disclosed in document D1 is not mentioned in the description, nor is this document identified therein.